

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DEBBIE LONG,  
Plaintiff

v.

THE TRAVELERS HOME AND MARINE  
INSURANCE COMPANY,  
Defendant.

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CASE NO. 4:15-cv-2383

**NOTICE OF REMOVAL**

Defendant The Travelers Home and Marine Insurance Company (“Travelers”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, files this Notice of Removal of the captioned action *Debbie Long v. The Travelers Home & Marine Insurance Company*, Cause No. 2015-39596, on the docket of the 295th Judicial District Court of Harris County, Texas. In support of this Notice of Removal, Defendant respectfully represents the following:

1. Debbie Long (“Plaintiff”) commenced this lawsuit against Travelers on or about July 9, 2015, by filing Plaintiff’s Original Petition (the “Petition”) in the 295th Judicial District Court of Harris County, Texas, which was assigned case number 2015-39596.

2. A copy of all process, pleadings, and orders in the state court action are filed with this notice. (*See* Index of Matters Being Filed.)

3. Also attached to this notice is the Notice of Service of Process that shows service on Defendant on June 20, 2015.

4. The Petition avers that Plaintiff is an individual residing in Harris County, Texas. (Petition, ¶ 1).

5. The Petition alleges that Travelers is “an insurance company doing business in the State of Texas which may be served through its registered agent for service of process in the State of Texas, Corporation Service Company, via certified mail at 211 East 7<sup>th</sup> Street, Suite 620, Austin, TX 78701. (Petition, ¶ 2).

6. The Petition alleges that Plaintiff owns residential property in Cypress, Texas, Harris County, Texas, which was insured under an insurance policy issued by Travelers. (Petition, ¶¶ 7-8). The Petition alleges that on or about April 19, 2015, Plaintiff’s Property was damaged due to storm related conditions, that Plaintiff submitted a claim for the damage (Petition, ¶ 8), and that Travelers failed to adequately indemnify Plaintiff for the entire scope of the damage, among other allegations. (Petition, ¶¶ 9-12).

7. Plaintiff seeks monetary relief over \$100,000 but not more than \$1,000,000. (Petition, ¶ 4) This amount satisfies the jurisdictional requirement of this Court.

8. Travelers was served with the Petition by certified mail through its agent, Corporation Service Company, on July 20, 2015.

9. This Notice of Removal is filed within 30 days of service of the Petition and is therefore timely under 28 U.S.C. Section 1446(b).

10. Travelers denies the underlying facts as alleged by Plaintiff or as summarized above. Further, Travelers expressly denies that it has any liability to Plaintiff.

#### **DIVERSITY JURISDICTION**

11. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and this matter is therefore removable to this Court pursuant to 28 U.S.C. § 1441(a), because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs. Plaintiff resides in Harris County, Texas.

12. Travelers is incorporated in Connecticut and has its principal place of business in Connecticut.

13. The amount in controversy exceeds the jurisdictional minimum. Plaintiff seeks over \$100,000.00 in damages. (Petition, ¶ 4). Plaintiff also seeks treble damages, damages for additional and consequential damages, including but not limited to court costs, attorney's fees, prejudgment and post judgment interest, and exemplary damages. (Petition, ¶¶ 4, 16, 23, and 26). Attorneys' fees and penalties are included as part of the amount in controversy for purposes of federal court diversity jurisdiction. *See H&D Tire & Automotive-Hardware, Inc. v. Pitney Bowes Inc.*, 227 F.3d 326, 330 (5th Cir. 2000); *see also St. Paul Reinsurance Co. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998).

14. Further, plaintiffs in Texas are not limited to recovery of damages requested in their pleadings. "Litigants who want to prevent removal must file a binding stipulation or affidavit with their complaints." *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1412 (5th Cir.1995) (quoting *In re Shell Oil Co.*, 970 F.2d 355, 356 (7th Cir.1992)). "The general principle is that Plaintiff will have to show that they are bound irrevocably by their state pleadings." *Id.* at 1412 n.10.

15. Plaintiff did not file a binding stipulation or affidavit with the Petition.

### **REMOVAL PROCEDURE**

16. Travelers has provided the clerk of the 295th Judicial District Court of Harris County, Texas with notice of this removal.

17. Pursuant to Local Rule 81, copies of the following documents are hereby provided to the clerk for filing in connection with this Notice of Removal:

- a. An index of matters being filed;
- b. The certified state court file;

- c. July 10, 2015 Citation to Travelers;
- d. Notice of Service of Process showing service on Travelers on July 20, 2015;
- e. Traveler's Original Answer;
- f. List of All Parties and Counsel of Record;
- g. Notice to State Court of Filing Notice of Removal;
- h. Federal Civil Cover Sheet.

WHEREFORE, Defendant The Travelers Home and Marine Insurance Company hereby provides notice that this action is duly removed.

Respectfully submitted,

/s/Martin R. Sadler

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**CERTIFICATE OF SERVICE**

I hereby certify that on this the **18th of August, 2015**, a copy of the foregoing has been served on all counsel of record in this action by electronic service or by facsimile or by U.S. Mail to:

Ana M. Ene  
William X. King  
Richard D. Daly  
John Scott Black  
DALY & BLACK, P.C.  
2211 Norfolk Street, Suite 800  
Houston, TX 77098

/s/ Martin R. Sadler

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